

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 21, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 56

Introduced by Assembly Member Portantino

December 5, 2008

An act to ~~amend Section 1367.65 of~~ *add Section 1367.651 to the Health and Safety Code, and to amend Section 10123.81 of, and to add Section 10123.815 to, the Insurance Code, relating to health care coverage.*

LEGISLATIVE COUNSEL'S DIGEST

AB 56, as amended, Portantino. Health care coverage: mammographies.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide coverage for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law. Under existing law, an individual or group policy of disability insurance or self-insured

employee welfare benefit plan that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide specified coverage based upon age for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law. Existing law also requires such plan contracts and policies to cover screenings and diagnosis of breast cancer, consistent with generally accepted medical practice and scientific evidence, upon referral of an enrollee's participating physician.

This bill would require these plans and insurers to provide female enrollees or insureds with notice, as specified, regarding eligibility for tests for screening or diagnosis of breast cancer. The bill would provide that individual or group policies of health insurance or self-insured employee welfare benefit plans issued, amended, delivered, or renewed on and after July 1, 2010, shall be deemed to provide coverage for mammographies for screening or diagnostic purposes upon referral of a participating nurse practitioner, participating certified nurse-midwife, or participating physician, as specified.

Because this bill would specify an additional requirement for a health care service plan, the willful violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. The Legislature hereby finds and declares the~~
- 2 ~~following:~~
- 3 ~~(a) It is the intent of the Legislature to ensure that all women~~
- 4 ~~have access to medically appropriate breast cancer screening and~~
- 5 ~~diagnostic tests, especially those women who possess risk factors~~
- 6 ~~that place them at high risk of developing breast cancer during~~
- 7 ~~their lives.~~

1 ~~(b) In order to protect the health of California citizens, breast~~
2 ~~cancer screening and diagnostic testing methods must be provided.~~
3 ~~These diagnostic treatment tools, when used in accordance with~~
4 ~~nationally accepted guidelines, offer the best chance for the~~
5 ~~detection and timely, cost-effective treatment of breast cancer.~~

6 ~~SEC. 2. Section 1367.65 of the Health and Safety Code is~~
7 ~~amended to read:~~

8 ~~1367.65. (a) On or after January 1, 2000, every health care~~
9 ~~service plan contract, except a specialized health care service plan~~
10 ~~contract, that is issued, amended, delivered, or renewed shall be~~
11 ~~deemed to provide coverage for mammography for screening or~~
12 ~~diagnostic purposes upon referral by a participating nurse~~
13 ~~practitioner, participating certified nurse-midwife, or participating~~
14 ~~physician, providing care to the patient and operating within the~~
15 ~~scope of practice provided under existing law.~~

16 ~~(b) Nothing in this section shall be construed to prevent~~
17 ~~application of copayment or deductible provisions in a plan, nor~~
18 ~~shall this section be construed to require that a plan be extended~~
19 ~~to cover any other procedures under an individual or a group health~~
20 ~~care service plan contract. Nothing in this section shall be construed~~
21 ~~to authorize a plan enrollee to receive the services required to be~~
22 ~~covered by this section if those services are furnished by a~~
23 ~~nonparticipating provider, unless the plan enrollee is referred to~~
24 ~~that provider by a participating physician, nurse practitioner, or~~
25 ~~certified nurse-midwife providing care.~~

26 ~~(c) A health care service plan subject to this section or Section~~
27 ~~1367.6 shall provide a female enrollee with notice, during the~~
28 ~~calendar year in which national guidelines indicate she should start~~
29 ~~undergoing tests for screening or diagnosis of breast cancer,~~
30 ~~notifying her that she is eligible for testing. The notice may be~~
31 ~~provided by written letter sent to the enrollee, by publication in a~~
32 ~~newsletter sent to the enrollee, by publication in evidence of~~
33 ~~coverage, by direct telephone call to the enrollee, by electronic~~
34 ~~transmission, or by any other means that will reasonably notify~~
35 ~~the female enrollee of her eligibility for testing.~~

36 ~~SECTION 1. Section 1367.651 is added to the Health and~~
37 ~~Safety Code, to read:~~

38 ~~1367.651. A health care service plan subject to Section 1367.6~~
39 ~~or 1367.65 shall provide a female enrollee with notice, during the~~
40 ~~calendar year in which national guidelines indicate she should~~

1 *start undergoing tests for screening or diagnosis of breast cancer,*
2 *notifying her that she is eligible for testing. This notice may be*
3 *provided by written letter sent to the enrollee, by publication in a*
4 *newsletter sent to the enrollee, by publication in evidence of*
5 *coverage, by direct telephone call to the enrollee, by electronic*
6 *transmission, or by any other means that will reasonably notify*
7 *the female enrollee of her eligibility for testing.*

8 ~~SEC. 3.~~

9 SEC. 2. Section 10123.81 of the Insurance Code is amended
10 to read:

11 10123.81. (a) On or after January 1, 2000, every individual
12 or group policy of disability insurance or self-insured employee
13 welfare benefit plan that is issued, amended, or renewed, shall be
14 deemed to provide coverage for at least the following, upon the
15 referral of a nurse practitioner, certified nurse-midwife, or
16 physician, providing care to the patient and operating within the
17 scope of practice provided under existing law for breast cancer
18 screening or diagnostic purposes:

19 (1) A baseline mammogram for women age 35 to 39, inclusive.

20 (2) A mammogram for women age 40 to 49, inclusive, every
21 two years or more frequently based on the women's physician's
22 recommendation.

23 (3) A mammogram every year for women age 50 and over.

24 (b) On or after July 1, 2010, every individual or group policy
25 of health insurance or self-insured employee welfare benefit plan
26 that is issued, amended, delivered, or renewed shall be deemed to
27 provide coverage for mammography for screening or diagnostic
28 purposes upon referral by a participating nurse practitioner,
29 participating certified nurse-midwife, or participating physician,
30 providing care to the patient and operating within the scope of
31 practice provided under existing law.

32 (c) Nothing in this section shall be construed to require an
33 individual or group policy to cover the surgical procedure known
34 as mastectomy or to prevent application of deductible or copayment
35 provisions contained in the policy or plan, nor shall this section
36 be construed to require that coverage under an individual or group
37 policy be extended to any other procedures.

38 (d) Nothing in this section shall be construed to authorize an
39 insured or plan member to receive the coverage required by this
40 section if that coverage is furnished by a nonparticipating provider,

1 unless the insured or plan member is referred to that provider by
2 a participating physician, nurse practitioner, or certified
3 nurse-midwife providing care.

4 ~~(e) A disability insurer or self-insured employee welfare benefit~~
5 ~~plan subject to this section or Section 10123.8 shall provide a~~
6 ~~female insured with notice, during the calendar year in which~~
7 ~~national guidelines indicate she should start undergoing tests for~~
8 ~~screening or diagnosis of breast cancer, notifying her that she is~~
9 ~~eligible for testing. The notice may be provided by written letter~~
10 ~~sent to the insured, by publication in a newsletter sent to the~~
11 ~~insured, by publication in evidence of coverage, by direct telephone~~
12 ~~call to the insured, by electronic transmission, or by any other~~
13 ~~means that will reasonably notify the female insured of her~~
14 ~~eligibility for testing.~~

15 ~~(f)~~

16 (e) This section shall not apply to Medicare supplement,
17 vision-only, dental-only, or CHAMPUS supplement insurance, or
18 to hospital indemnity, accident-only, or specified disease insurance
19 that does not pay benefits on a fixed-benefit, cash-payment-only
20 basis.

21 *SEC. 3. Section 10123.815 is added to the Insurance Code, to*
22 *read:*

23 *10123.815. A disability insurer or self-insured employee*
24 *welfare benefit plan subject to Section 10123.8 or 10123.81 shall*
25 *provide a female insured with notice, during the calendar year in*
26 *which national guidelines indicate she should start undergoing*
27 *tests for screening or diagnosis of breast cancer, notifying her that*
28 *she is eligible for testing. This notice may be provided by written*
29 *letter sent to the insured, by publication in a newsletter sent to the*
30 *insured, by publication in evidence of coverage, by direct telephone*
31 *call to the insured, by electronic transmission, or by any other*
32 *means that will reasonably notify the female insured of her*
33 *eligibility for testing.*

34 SEC. 4. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O